

REMARKS

In response to the Official Action of April 19, 2005, claims 7, 10, 13, 15 and 23 have been amended, and claims 11 and 12 have been cancelled.

More particularly, referring now to paragraph 6 of the Official Action, the antecedent basis rejections regarding claims 7, 10-13 and 15 have been corrected. Support for the amendment of claim 7 is found in the published specification at page 10, lines 20-22.

Referring now to paragraphs 4 and 5 of the Official Action, claims 17-23 are rejected under 35 USC §112, first paragraph, on the grounds that the specification does not reasonably provide enablement for the control information transmitted by the first (base) station to the second (mobile) station being differently coded. It is respectfully submitted that there may be a misunderstanding in the Official Action concerning the phrase “differently coded.” It is respectfully submitted that it is not true to say that one skilled in the art who has read the specification would believe that this phrase means, for example, TDMA rather than CDMA. Rather, it is believed to be reasonably clear to a person of ordinary skill in the art that this term refers to different coding, but within the same general signaling protocol. The example of the different coding regarding claims 17 and 23 is seen at page 9, paragraph 2, and page 10, last paragraph, of the published PCT application as being different numbers of symbols and bits. This is only an example and hence it is specifically claimed in dependent claim 20 rather than in an independent claim.

Other basis in the application can be found in claim 19 and at page 5, second paragraph, of the published PCT application, which refers to first and second coding. Finally, the last paragraph on page 7 of the published application states that the “control information may be the same or different.” It is respectfully submitted that the recited passages in the specification provide sufficient basis for the phrases objected to in claims 17 and 23. It is therefore respectfully submitted that claims 17-23 are supported by an enabling disclosure.

Art Rejections

Paragraph 10 of the Official Action rejects claims 1, 3-6, 8-12, 17-19 and 23 as anticipated in view of US Patent No. 5,809,430 (D’Amico). D’Amico is directed to a method of

performing handover which includes selecting an optimum base station within a personal communication system having power control. The problem to be solved in this patent is stated to be that the power levels can vary in dependence on the distance between a base station and a mobile terminal and that consequently it is not desirable to use received signal strength level (RSS) as the sole indicator of which base station to select. This is explained in the background section of D'Amico.

The problem addressed by the present invention is different and is explained at page 2, second paragraph, of the published PCT application. This paragraph explains that in the situation where two communications are being sent (for example, speech and data), different information received from different base stations can result in the mobile station not being able to correctly decode the communications.

With regard to claim 1, since D'Amico does not address the problem addressed by the present invention, it does not disclose what is recited in claim 1 as a "second communication," as set forth in claim 1, lines 7-12. Rather, Figure 2 of D'Amico and its associated description at column 4, lines 14-36, only describe a single time slot with an information field 212. This type of information contained in this information field is not discussed and consequently there is no disclosure of first and second communications. At column 3, lines 44-64 (referenced by the Examiner), discussion is directed to transfer of a communication link from the base station 102 to base station 124 (emphasis added). This could be considered to be the "first communication" of claim 1. However, there is no discussion of the base station 124 transmitting second signals comprising a second communication. Indeed, the Examiner does not indicate where in D'Amico such a second communication is disclosed.

Although D'Amico discusses the possibility of multiple communications from a base station in general terms at the top of column 4, no specific arrangement of signals is discussed. There is therefore no disclosure of a second communication being transmitted only from another base station other than the one base station as required in claim 1.

Since the required second communication is not discussed in D'Amico, there is also no disclosure of the step of processing of first and second signals of the type required by claim 1. In fact, D'Amico discloses only that the received signals are being used by a mobile terminal to decide

which base station to handover to, rather than discussing actual processing of the signals. This deficiency in the disclosure of D'Amico is significant because D'Amico describes a system of hard handover rather than a system of soft handover as required by claim 1. In hard handover, a mobile station is transferred from a first base station to a second base station such that it cannot receive data from more than one base station at the same time. In contrast to this type of handover, in soft handover, a mobile station may receive data from two base stations simultaneously. The Examiner does not take this into account in the rejection of the above-recited claims.

It is therefore respectfully submitted that claim 1 is not anticipated or suggested by D'Amico because it solves a problem which D'Amico neither addresses nor solves.

Referring now to network independent claim 17, there are several differences between this claim and D'Amico. First, there was no disclosure in D'Amico of "at least one of the first stations being connected to a different control element" (claim 17, line 4). It can be seen in Figure 1 of D'Amico that base stations 102, 124 and 130 are connected to the same radio port control unit (RPCU) 122. Although column 2, lines 18-19, of D'Amico states that the RPCU can be integrated with each base station, D'Amico goes on to say that it is preferable for a single RPCU to be provided in accordance with Figure 1. There is certainly no discussion of the system in operation with more than one RPCU. Thus, D'Amico does not disclose the second mode of operation required by claim 17.

Furthermore, D'Amico does not disclose the features of the first station transmitting identical control information to the second station. In fact, the primary purpose of D'Amico is that the code word 208 from each base station is different because it indicates the power level of that particular base station. These power levels are used by the mobile station to decide which base station it should use in order to establish a communication. This can be understood with reference to column 4, lines 27-36, of D'Amico.

Furthermore, the Examiner suggests in the Official Action that the fact that the code words correspond to different power levels means that they are "differently coded." As explained earlier, the situation of the second mode of which this phrase "differently coded" forms part thereof, is not disclosed in D'Amico. Furthermore, it is respectfully submitted that it is not correct to state that the word "different" is the same as "differently coded." The term "differently coded" describes the

format in which a piece of information is transferred, not the actual piece of information. In the example of the present application on page 9, the TCFI coding is said to be in 16.5 format. It does not follow that every TCFI code is exactly the same, but rather the TCFI word will be different for different communications while using the same coding format. Claim 17 clearly refers to different code formats, not to the actual value of control information from different first (base) stations.

It is therefore respectfully submitted that claim 17 is novel over D'Amico for the above-recited reasons.

Independent method of transmitting signals claim 23 is distinguished over D'Amico because the coding of the first and second signals is said to be different. As explained with regard to claim 17, different coding of signals is not disclosed in D'Amico and therefore no disclosure of the actual "processing" as required in the final paragraph of claim 23 is found in D'Amico as explained above.

Finally, please note that a minor amendment has been made in claim 23 to make clear that the transmitting of the second signals including the second associated information is performed on a shared channel. The phrase "on a shared channel" was inadvertently previously added after the phrase "differing at least partially." Correction has been made in the present amendment.

In view of the foregoing, it is respectfully submitted that claims 1, 3-6, 8-12, 17-19 and 23 are neither anticipated nor suggested by D'Amico.

Referring now to paragraph 11 of the Official Action, claim 1 is rejected as anticipated in view of EP 0 577 322 (Malkamaki). The Examiner does not set forth any specific reasons concerning this anticipation. Nevertheless, Malkamaki describes a method for call handover in a cellular radio system using soft handover, whereby during the transitional period in which the mobile station switches base stations, the mobile station is in communication with both base stations on different channels. The same data is sent on the different channels and different signaling information is sent. The method described, exemplified by a TDMA system, utilizes soft handover without the need for base stations to send the same signal simultaneously. The purpose of the arrangement disclosed in Malkamaki is to avoid signal interference problems as clearly discussed at column 3, first paragraph thereof.

It is respectfully submitted that Malkamaki does not anticipate claim 1 because Malkamaki does not disclose the "second communication" as required by claim 1. Similar arguments to those presented above with regard to D'Amico pertain to Malkamaki as well. That is, based on the fact that because Malkamaki does not address the same problem as the present invention, there is no disclosure of second signals as required by claim 1, nor of the processing step. Thus, Malkamaki does not discuss the sending of two communications from one base station (for example, data and speech) and the processing of these communications by the mobile station. It is therefore respectfully submitted that claim 1 is not anticipated nor suggested by Malkamaki.

The remaining claims of the present application are rejected as obvious in view of D'Amico further in view of additional art (paragraph numbers 14, 15 and 16). Since these claims all depend from independent claims which are believed to be distinguished over the prior art, it is respectfully submitted that dependent claims 2, 4, 7, 13 and 14, rejected at paragraph no. 14 of the Official Action, claims 15 and 16 rejected at paragraph no. 15 of the Official Action and claims 20-22 rejected at paragraph 16 of the Official Action, are distinguished over the cited art due to their ultimate dependency from claims which are believed to be allowable over the art.

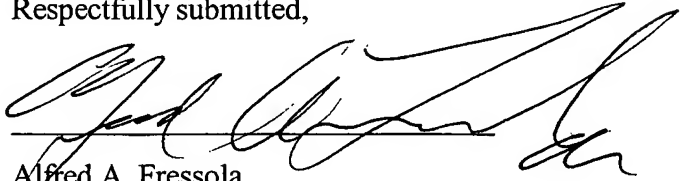
Finally it is noted that there are a number of paragraphs in the Official Action which do not directly relate to objections or rejections of the specification or claims of the present application. These paragraphs include paragraph nos. 3, 17, 18 and 21-23.

In view of the foregoing, it is respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

Dated: August 19, 2005

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building Five
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234; Facsimile: (203) 261-5676
USPTO Customer No. 004955

Respectfully submitted,



Alfred A. Fressola
Attorney for Applicant
Reg. No. 27,550